

As Amended by House Committee

Session of 2023

HOUSE BILL No. 2028

By Committee on Judiciary

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to sentencing; requiring automatic expungement of certain records;
3 amending K.S.A. 2022 Supp. 21-6614 and repealing the existing
4 section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) (1) (A) On and after July 1, ~~2023~~ **2024**,
8 notwithstanding the provisions of K.S.A. 2022 Supp. 21-6614, and
9 amendments thereto, and except as provided in paragraph (3) and
10 subsection (c)(3), if a court enters an order of acquittal of criminal charges
11 against a person or enters an order dismissing, with or without prejudice,
12 all criminal charges in a case against a person, the court shall order the
13 record of such charges and related arrest records expunged 30 days after
14 such order is entered unless the person objects to the expungement, an
15 appeal is filed or the prosecutor files a written objection to the
16 expungement.

17 (B) If an appeal is filed and the appellate court issues a mandate
18 affirming the district court's dismissal, the district court shall order the
19 records expunged 30 days after such mandate is filed.

20 (C) If the prosecutor files a written objection to the expungement, the
21 court shall promptly hold a hearing on such objection. If the court finds
22 expungement is appropriate, the court shall order the records expunged 30
23 days after such hearing. If the court finds expungement is not appropriate,
24 the court shall not order the records expunged.

25 (D) An order expunging records pursuant to this paragraph shall not
26 require any action by the person.

27 (2) Notwithstanding the provisions of K.S.A. 2022 Supp. 21-6614,
28 and amendments thereto, and except as provided in paragraph (3), a person
29 who has been charged with a criminal offense and who has been acquitted
30 of such charges or against whom charges have been dismissed, and whose
31 records have not been expunged pursuant to paragraph (1), may petition
32 the court in which the disposition of charges was made to expunge all
33 charges and related arrest records. A petition for expungement brought
34 under this paragraph shall be filed not sooner than 60 days after the order
35 of acquittal or dismissal, with or without prejudice, is entered by the court.

36 (3) The provisions of paragraphs (1) and (2) do not apply to diversion
37 agreements entered into in lieu of further criminal proceedings for a
38 violation of driving under the influence, K.S.A. 8-1567, and amendments
39 thereto, ~~or to violations of a city ordinance or county resolution prohibiting~~

1 ~~the acts prohibited by K.S.A. 8-1567, and amendments thereto.~~

2 (b) (1) After the filing of a petition pursuant to subsection (a)(2), the
3 court shall notify the prosecutor and provide such prosecutor with the
4 opportunity to respond to the petition. Such response shall be filed within
5 30 days after the filing of the petition. The prosecutor shall notify the
6 arresting law enforcement agency of such petition.

7 (2) (A) If a response objecting to the expungement is filed, the court
8 shall set the matter for hearing. The prosecutor shall notify any victim of
9 such hearing as required by K.S.A. 74-7335, and amendments thereto.

10 (B) If a response objecting to the expungement is not filed, the court
11 shall order the expungement of such records 30 days after the filing of the
12 petition pursuant to subparagraph (C).

13 (C) If the court finds that a petition filed pursuant to subsection (a)(2)
14 is properly filed, the court shall grant the petition and order the court
15 records and related arrest records expunged if such order is consistent with
16 the public welfare.

17 (c) (1) An order of expungement pursuant to this section shall
18 expunge all criminal records in the custody of the court and any criminal
19 records in the custody of any other agency or official, including law
20 enforcement records, related to the charges described in such order.

21 (2) When a court has issued an order of expungement pursuant to this
22 section, the clerk of the court shall send a certified copy of the order of
23 expungement to the Kansas bureau of investigation. The Kansas bureau of
24 investigation shall send a copy of such order to the federal bureau of
25 investigation, the secretary of corrections, the appellate courts and any
26 other criminal justice agency that may have a record of the arrest, charge,
27 conviction, acquittal, dismissal or diversion. If the case was appealed from
28 municipal court, the clerk of the district court shall send a certified copy of
29 the order of expungement to the municipal court. The municipal court shall
30 order the case expunged once the certified copy of the order of
31 expungement is received. After the order of expungement is entered, the
32 petitioner shall be treated as not having been arrested, charged, acquitted,
33 dismissed or diverted of the crime, except that:

34 (A) Upon conviction for any subsequent crime, the diversion that was
35 expunged may be considered as a prior conviction in determining the
36 sentence to be imposed;

37 (B) the petitioner shall disclose that the arrest, acquittal, dismissal or
38 diversion occurred if asked about previous arrests, convictions or
39 diversions:

40 (i) In any application for licensure as a private detective, private
41 detective agency, certification as a firearms trainer pursuant to K.S.A. 75-
42 7b21, and amendments thereto, or employment as a detective with a
43 private detective agency, as defined by K.S.A. 75-7b01, and amendments

- 1 thereto; as security personnel with a private patrol operator, as defined by
2 K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined
3 in K.S.A. 76-12a01, and amendments thereto, of the Kansas department
4 for aging and disability services;
- 5 (ii) in any application for admission, or for an order of reinstatement,
6 to the practice of law in this state;
- 7 (iii) to aid in determining the petitioner's qualifications for
8 employment with the Kansas lottery or for work in sensitive areas within
9 the Kansas lottery as deemed appropriate by the executive director of the
10 Kansas lottery;
- 11 (iv) to aid in determining the petitioner's qualifications for executive
12 director of the Kansas racing and gaming commission, for employment
13 with the commission or for work in sensitive areas in parimutuel racing as
14 deemed appropriate by the executive director of the commission, or to aid
15 in determining qualifications for licensure or renewal of licensure by the
16 commission;
- 17 (v) to aid in determining the petitioner's qualifications for the
18 following under the Kansas expanded lottery act:
- 19 (a) Lottery gaming facility manager or prospective manager,
20 racetrack gaming facility manager or prospective manager, licensee or
21 certificate holder; or
- 22 (b) an officer, director, employee, owner, agent or contractor thereof;
- 23 (vi) upon application for a commercial driver's license under K.S.A.
24 8-2,125 through 8-2,142, and amendments thereto;
- 25 (vii) to aid in determining the petitioner's qualifications to be an
26 employee of the state gaming agency;
- 27 (viii) to aid in determining the petitioner's qualifications to be an
28 employee of a tribal gaming commission or to hold a license issued
29 pursuant to a tribal-state gaming compact;
- 30 (ix) in any application for registration as a broker-dealer, agent,
31 investment adviser or investment adviser representative, all as defined in
32 K.S.A. 17-12a102, and amendments thereto;
- 33 (x) in any application for employment as a law enforcement officer as
34 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or
- 35 (xi) to aid in determining the petitioner's qualifications for a license to
36 act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-
37 7e09, and amendments thereto, and K.S.A. 2022 Supp. 50-6,141, and
38 amendments thereto;
- 39 (C) the court, in the order of expungement, may specify other
40 circumstances under which the conviction is to be disclosed;
- 41 (D) the diversion may be disclosed in a subsequent prosecution for an
42 offense that requires as an element of such offense a prior conviction of
43 the type expunged; and

1 (E) upon commitment to the custody of the secretary of corrections,
2 any previously expunged record in the possession of the secretary of
3 corrections may be reinstated and the expungement disregarded, and the
4 record continued for the purpose of the new commitment.

5 (3) Upon a motion establishing good cause, the court may set aside
6 the order expunging a record pursuant to this section.

7 (d) (1) Subject to the disclosures required pursuant to subsection (c),
8 in any application for employment, license or other civil right or privilege,
9 or any appearance as a witness, a person whose records of arrest, acquittal,
10 dismissal or diversion related to a criminal charge have been expunged
11 under this statute may state that such person has never been arrested,
12 charged, acquitted, dismissed or diverted of the crime.

13 (2) A person whose arrest record, conviction or diversion of a crime
14 that resulted in such person being prohibited by state or federal law from
15 possessing a firearm has been expunged under this statute shall be deemed
16 to have had such person's right to keep and bear arms fully restored. This
17 restoration of rights shall include, but not be limited to, the right to use,
18 transport, receive, purchase, transfer and possess firearms. The provisions
19 of this paragraph shall apply to all orders of expungement pursuant to this
20 section.

21 (e) Whenever the records of arrest, acquittal, dismissal, conviction or
22 diversion related to a criminal charge have been expunged under the
23 provisions of this section or under the provisions of any other existing or
24 former statute, the custodian of the records of arrest, acquittal, dismissal,
25 conviction, diversion or incarceration relating to such criminal charge shall
26 not disclose the existence of such records, except when requested by:

27 (1) The person whose record was expunged;

28 (2) a private detective agency or a private patrol operator, and the
29 request is accompanied by a statement that the request is being made in
30 conjunction with an application for employment with such agency or
31 operator by the person whose record has been expunged;

32 (3) a court, upon a showing of a subsequent conviction of the person
33 whose record has been expunged;

34 (4) the secretary for aging and disability services, or a designee of the
35 secretary, for the purpose of obtaining information relating to employment
36 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,
37 of the Kansas department for aging and disability services of any person
38 whose record has been expunged;

39 (5) a person entitled to such information pursuant to the terms of the
40 expungement order;

41 (6) a prosecutor, for the purpose of a potential prosecution;

42 (7) the supreme court, the clerk or disciplinary administrator thereof,
43 the state board for admission of attorneys or the state board for discipline

1 of attorneys, and the request is accompanied by a statement that the
2 request is being made in conjunction with an application for admission, or
3 for an order of reinstatement, to the practice of law in this state by the
4 person whose record has been expunged;

5 (8) the Kansas lottery, and the request is accompanied by a statement
6 that the request is being made to aid in determining qualifications for
7 employment with the Kansas lottery or for work in sensitive areas within
8 the Kansas lottery as deemed appropriate by the executive director of the
9 Kansas lottery;

10 (9) the governor or the Kansas racing and gaming commission, or a
11 designee of the commission, and the request is accompanied by a
12 statement that the request is being made to aid in determining
13 qualifications for executive director of the commission, for employment
14 with the commission, for work in sensitive areas in parimutuel racing as
15 deemed appropriate by the executive director of the commission or for
16 licensure, renewal of licensure or continued licensure by the commission;

17 (10) the Kansas racing and gaming commission, or a designee of the
18 commission, and the request is accompanied by a statement that the
19 request is being made to aid in determining qualifications of the following
20 under the Kansas expanded lottery act:

21 (A) Lottery gaming facility managers and prospective managers,
22 racetrack gaming facility managers and prospective managers, licensees
23 and certificate holders; and

24 (B) their officers, directors, employees, owners, agents and
25 contractors;

26 (11) the Kansas sentencing commission;

27 (12) the state gaming agency, and the request is accompanied by a
28 statement that the request is being made to aid in determining
29 qualifications:

30 (A) To be an employee of the state gaming agency; or

31 (B) to be an employee of a tribal gaming commission or to hold a
32 license issued pursuant to a tribal-gaming compact;

33 (13) the Kansas securities commissioner or a designee of the
34 commissioner, and the request is accompanied by a statement that the
35 request is being made in conjunction with an application for registration as
36 a broker-dealer, agent, investment adviser or investment adviser
37 representative by such agency and the application was submitted by the
38 person whose record has been expunged;

39 (14) the Kansas commission on peace officers' standards and training
40 and the request is accompanied by a statement that the request is being
41 made to aid in determining certification eligibility as a law enforcement
42 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

43 (15) a law enforcement agency for the purposes of a criminal

1 investigation;

2 (16) (A) the attorney general and the request is accompanied by a
3 statement that the request is being made to aid in determining
4 qualifications for a license to act as a bail enforcement agent pursuant to
5 K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A.
6 2022 Supp. 50-6,141, and amendments thereto; or

7 (B) the attorney general for any other purpose authorized by law,
8 except that an expungement record shall not be the basis for denial of a
9 license to carry a concealed handgun under the personal and family
10 protection act; or

11 (17) the Kansas bureau of investigation, for the purpose of
12 completing a person's criminal history record information within the
13 central repository, in accordance with K.S.A. 22-4701 et seq., and
14 amendments thereto.

15 (f) As used in this section, "criminal charges" does not include a
16 traffic infraction that is not classified as a misdemeanor.

17 (g) The provisions of this section, except for the provisions of
18 subsection (a)(1), shall be construed and applied retroactively.

19 Sec. 2. K.S.A. 2022 Supp. 21-6614 is hereby amended to read as
20 follows: 21-6614. (a) ~~(1)~~ Except as provided in subsections (b), (c), (d), (e)
21 and (f), any person convicted in this state of a traffic infraction, cigarette
22 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes
23 committed on or after July 1, 1993, any nongrid felony or felony ranked in
24 severity levels 6 through 10 of the nondrug grid, or for crimes committed
25 on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in
26 severity level 4 of the drug grid, or for crimes committed on or after July
27 1, 2012, any felony ranked in severity level 5 of the drug grid may petition
28 the convicting court for the expungement of such conviction or related
29 arrest records if three or more years have elapsed since the person:

30 ~~(A)~~(1) Satisfied the sentence imposed; or

31 ~~(B)~~(2) was discharged from probation, a community correctional
32 services program, parole, postrelease supervision, conditional release or a
33 suspended sentence.

34 ~~(2) Except as provided in subsections (b), (c), (d), (e) and (f), any~~
35 ~~person who has fulfilled the terms of a diversion agreement may petition~~
36 ~~the district court for the expungement of such diversion agreement and~~
37 ~~related arrest records if three or more years have elapsed since the terms of~~
38 ~~the diversion agreement were fulfilled.~~

39 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
40 3512, prior to its repeal, convicted of a violation of K.S.A. 2022 Supp. 21-
41 6419, and amendments thereto, ~~or who entered into a diversion agreement~~
42 ~~in lieu of further criminal proceedings for such violation,~~ may petition the
43 convicting court for the expungement of such conviction ~~or diversion~~

1 ~~agreement~~ and related arrest records if:

2 (1) One or more years have elapsed since the person satisfied the
3 sentence imposed ~~or the terms of a diversion agreement~~ or was discharged
4 from probation, a community correctional services program, parole,
5 postrelease supervision, conditional release or a suspended sentence; and

6 (2) such person can prove they were acting under coercion caused by
7 the act of another. For purposes of this subsection, "coercion" means:
8 Threats of harm or physical restraint against any person; a scheme, plan or
9 pattern intended to cause a person to believe that failure to perform an act
10 would result in bodily harm or physical restraint against any person; or the
11 abuse or threatened abuse of the legal process.

12 (c) Except as provided in subsections (e) and (f), no person may
13 petition for expungement until five or more years have elapsed since the
14 person satisfied the sentence imposed ~~or the terms of a diversion~~
15 ~~agreement~~ or was discharged from probation, a community correctional
16 services program, parole, postrelease supervision, conditional release or a
17 suspended sentence, if such person was convicted of a class A, B or C
18 felony, or for crimes committed on or after July 1, 1993, if convicted of an
19 off-grid felony or any felony ranked in severity levels 1 through 5 of the
20 nondrug grid, or for crimes committed on or after July 1, 1993, but prior to
21 July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug
22 grid, or for crimes committed on or after July 1, 2012, any felony ranked
23 in severity levels 1 through 4 of the drug grid, or:

24 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
25 repeal, or K.S.A. 2022 Supp. 21-5406, and amendments thereto, or as
26 prohibited by any law of another state that is in substantial conformity
27 with that statute;

28 (2) driving while the privilege to operate a motor vehicle on the
29 public highways of this state has been canceled, suspended or revoked, as
30 prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by
31 any law of another state that is in substantial conformity with that statute;

32 (3) perjury resulting from a violation of K.S.A. 8-261a, and
33 amendments thereto, or resulting from the violation of a law of another
34 state that is in substantial conformity with that statute;

35 (4) violating the provisions of K.S.A. 8-142 *Fifth*, and amendments
36 thereto, relating to fraudulent applications or violating the provisions of a
37 law of another state that is in substantial conformity with that statute;

38 (5) any crime punishable as a felony wherein a motor vehicle was
39 used in the perpetration of such crime;

40 (6) failing to stop at the scene of an accident and perform the duties
41 required by K.S.A. 8-1603, prior to its repeal, or K.S.A. 8-1602 or 8-1604,
42 and amendments thereto, or required by a law of another state that is in
43 substantial conformity with those statutes;

1 (7) violating the provisions of K.S.A. 40-3104, and amendments
2 thereto, relating to motor vehicle liability insurance coverage; or

3 (8) a violation of K.S.A. 21-3405b, prior to its repeal.

4 (d) (1) No person may petition for expungement until five or more
5 years have elapsed since the person satisfied the sentence imposed or the
6 terms of a diversion agreement or was discharged from probation, a
7 community correctional services program, parole, postrelease supervision,
8 conditional release or a suspended sentence, if such person was convicted
9 of a first violation of K.S.A. 8-1567, and amendments thereto, including
10 any diversion for such violation.

11 (2) No person may petition for expungement until 10 or more years
12 have elapsed since the person satisfied the sentence imposed or was
13 discharged from probation, a community correctional services program,
14 parole, postrelease supervision, conditional release or a suspended
15 sentence, if such person was convicted of a second or subsequent violation
16 of K.S.A. 8-1567, and amendments thereto.

17 (3) Except as provided further, the provisions of this subsection shall
18 apply to all violations committed on or after July 1, 2006. The provisions
19 of subsection (d)(2) shall not apply to violations committed on or after
20 July 1, 2014, but prior to July 1, 2015.

21 (e) There shall be no expungement of convictions for the following
22 offenses or of convictions for an attempt to commit any of the following
23 offenses:

24 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
25 2022 Supp. 21-5503, and amendments thereto;

26 (2) indecent liberties with a child or aggravated indecent liberties
27 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
28 or K.S.A. 2022 Supp. 21-5506, and amendments thereto;

29 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
30 prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) or (a)(4), and
31 amendments thereto;

32 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
33 to its repeal, or K.S.A. 2022 Supp. 21-5504, and amendments thereto;

34 (5) indecent solicitation of a child or aggravated indecent solicitation
35 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
36 or K.S.A. 2022 Supp. 21-5508, and amendments thereto;

37 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
38 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;

39 (7) internet trading in child pornography or aggravated internet
40 trading in child pornography, as defined in K.S.A. 2022 Supp. 21-5514,
41 and amendments thereto;

42 (8) aggravated incest, as defined in K.S.A. 21-3603, prior to its
43 repeal, or K.S.A. 2022 Supp. 21-5604, and amendments thereto;

1 (9) endangering a child or aggravated endangering a child, as defined
2 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2022 Supp.
3 21-5601, and amendments thereto;

4 (10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
5 or K.S.A. 2022 Supp. 21-5602, and amendments thereto;

6 (11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
7 or K.S.A. 2022 Supp. 21-5401, and amendments thereto;

8 (12) murder in the first degree, as defined in K.S.A. 21-3401, prior to
9 its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments thereto;

10 (13) murder in the second degree, as defined in K.S.A. 21-3402, prior
11 to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments thereto;

12 (14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
13 its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto;

14 (15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
15 its repeal, or K.S.A. 2022 Supp. 21-5405, and amendments thereto;

16 (16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
17 or K.S.A. 2022 Supp. 21-5505, and amendments thereto, when the victim
18 was less than 18 years of age at the time the crime was committed;

19 (17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
20 its repeal, or K.S.A. 2022 Supp. 21-5505, and amendments thereto;

21 (18) a violation of K.S.A. 8-2,144, and amendments thereto,
22 including any diversion for such violation; or

23 (19) any conviction for any offense in effect at any time prior to July
24 1, 2011, that is comparable to any offense as provided in this subsection.

25 (f) Except as provided in K.S.A. 22-4908, and amendments thereto,
26 for any offender who is required to register as provided in the Kansas
27 offender registration act, K.S.A. 22-4901 et seq., and amendments thereto,
28 there shall be no expungement of any conviction or any part of the
29 offender's criminal record while the offender is required to register as
30 provided in the Kansas offender registration act.

31 (g) (1) When a petition for expungement is filed, the court shall set a
32 date for a hearing of such petition and shall cause notice of such hearing to
33 be given to the prosecutor and the arresting law enforcement agency. The
34 petition shall state the:

35 (A) Defendant's full name;

36 (B) full name of the defendant at the time of arrest, conviction or
37 diversion, if different than the defendant's current name;

38 (C) defendant's sex, race and date of birth;

39 (D) crime for which the defendant was arrested, convicted or
40 diverted;

41 (E) date of the defendant's arrest, conviction or diversion; and

42 (F) identity of the convicting court, arresting law enforcement
43 authority or diverting authority.

1 (2) Except as otherwise provided by law, a petition for expungement
2 shall be accompanied by a docket fee in the amount of \$176. On and after
3 July 1, 2019, through June 30, 2025, the supreme court may impose a
4 charge, not to exceed \$19 per case, to fund the costs of non-judicial
5 personnel. The charge established in this section shall be the only fee
6 collected or moneys in the nature of a fee collected for the case. Such
7 charge shall only be established by an act of the legislature and no other
8 authority is established by law or otherwise to collect a fee.

9 (3) All petitions for expungement shall be docketed in the original
10 criminal action. Any person who may have relevant information about the
11 petitioner may testify at the hearing. The court may inquire into the
12 background of the petitioner and shall have access to any reports or
13 records relating to the petitioner that are on file with the secretary of
14 corrections or the prisoner review board.

15 (h) At the hearing on the petition, the court shall order the petitioner's
16 arrest record, conviction or diversion expunged if the court finds that:

17 (1) The petitioner has not been convicted of a felony in the past two
18 years and no proceeding involving any such crime is presently pending or
19 being instituted against the petitioner;

20 (2) the circumstances and behavior of the petitioner warrant the
21 expungement;

22 (3) the expungement is consistent with the public welfare; and

23 (4) with respect to petitions seeking expungement of a felony
24 conviction, possession of a firearm by the petitioner is not likely to pose a
25 threat to the safety of the public.

26 (i) When the court has ordered an arrest record, conviction or
27 diversion expunged, the order of expungement shall state the information
28 required to be contained in the petition. The clerk of the court shall send a
29 certified copy of the order of expungement to the Kansas bureau of
30 investigation that shall notify the federal bureau of investigation, the
31 secretary of corrections and any other criminal justice agency that may
32 have a record of the arrest, conviction or diversion. If the case was
33 appealed from municipal court, the clerk of the district court shall send a
34 certified copy of the order of expungement to the municipal court. The
35 municipal court shall order the case expunged once the certified copy of
36 the order of expungement is received. After the order of expungement is
37 entered, the petitioner shall be treated as not having been arrested,
38 convicted or diverted of the crime, except that:

39 (1) Upon conviction for any subsequent crime, the conviction that
40 was expunged may be considered as a prior conviction in determining the
41 sentence to be imposed;

42 (2) the petitioner shall disclose that the arrest, conviction or diversion
43 occurred if asked about previous arrests, convictions or diversions:

- 1 (A) In any application for licensure as a private detective, private
2 detective agency, certification as a firearms trainer pursuant to K.S.A. 75-
3 7b21, and amendments thereto, or employment as a detective with a
4 private detective agency, as defined by K.S.A. 75-7b01, and amendments
5 thereto; as security personnel with a private patrol operator, as defined by
6 K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined
7 in K.S.A. 76-12a01, and amendments thereto, of the Kansas department
8 for aging and disability services;
- 9 (B) in any application for admission, or for an order of reinstatement,
10 to the practice of law in this state;
- 11 (C) to aid in determining the petitioner's qualifications for
12 employment with the Kansas lottery or for work in sensitive areas within
13 the Kansas lottery as deemed appropriate by the executive director of the
14 Kansas lottery;
- 15 (D) to aid in determining the petitioner's qualifications for executive
16 director of the Kansas racing and gaming commission, for employment
17 with the commission or for work in sensitive areas in parimutuel racing as
18 deemed appropriate by the executive director of the commission, or to aid
19 in determining qualifications for licensure or renewal of licensure by the
20 commission;
- 21 (E) to aid in determining the petitioner's qualifications for the
22 following under the Kansas expanded lottery act: (i) Lottery gaming
23 facility manager or prospective manager, racetrack gaming facility
24 manager or prospective manager, licensee or certificate holder; or (ii) an
25 officer, director, employee, owner, agent or contractor thereof;
- 26 (F) upon application for a commercial driver's license under K.S.A.
27 8-2,125 through 8-2,142, and amendments thereto;
- 28 (G) to aid in determining the petitioner's qualifications to be an
29 employee of the state gaming agency;
- 30 (H) to aid in determining the petitioner's qualifications to be an
31 employee of a tribal gaming commission or to hold a license issued
32 pursuant to a tribal-state gaming compact;
- 33 (I) in any application for registration as a broker-dealer, agent,
34 investment adviser or investment adviser representative all as defined in
35 K.S.A. 17-12a102, and amendments thereto;
- 36 (J) in any application for employment as a law enforcement officer as
37 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or
- 38 (K) to aid in determining the petitioner's qualifications for a license to
39 act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-
40 7e09, and amendments thereto, and K.S.A. 2022 Supp. 50-6,141, and
41 amendments thereto;
- 42 (3) the court, in the order of expungement, may specify other
43 circumstances under which the conviction is to be disclosed;

1 (4) the conviction may be disclosed in a subsequent prosecution for
2 an offense that requires as an element of such offense a prior conviction of
3 the type expunged; and

4 (5) upon commitment to the custody of the secretary of corrections,
5 any previously expunged record in the possession of the secretary of
6 corrections may be reinstated and the expungement disregarded, and the
7 record continued for the purpose of the new commitment.

8 (j) Whenever a person is convicted of a crime, pleads guilty and pays
9 a fine for a crime, is placed on parole, postrelease supervision or
10 probation, is assigned to a community correctional services program, is
11 granted a suspended sentence or is released on conditional release, the
12 person shall be informed of the ability to expunge the arrest records or
13 conviction. Whenever a person enters into a diversion agreement, the
14 person shall be informed of the ability to expunge the diversion.

15 (k) (1) Subject to the disclosures required pursuant to subsection (i),
16 in any application for employment, license or other civil right or privilege,
17 or any appearance as a witness, a person whose arrest records, conviction
18 or diversion of a crime has been expunged under this statute may state that
19 such person has never been arrested, convicted or diverted of such crime.

20 (2) A person whose arrest record, conviction or diversion of a crime
21 that resulted in such person being prohibited by state or federal law from
22 possessing a firearm has been expunged under this statute shall be deemed
23 to have had such person's right to keep and bear arms fully restored. This
24 restoration of rights shall include, but not be limited to, the right to use,
25 transport, receive, purchase, transfer and possess firearms. The provisions
26 of this paragraph shall apply to all orders of expungement, including any
27 orders issued prior to July 1, 2021.

28 (l) Whenever the record of any arrest, conviction or diversion has
29 been expunged under the provisions of this section or under the provisions
30 of any other existing or former statute, the custodian of the records of
31 arrest, conviction, diversion and incarceration relating to that crime shall
32 not disclose the existence of such records, except when requested by:

33 (1) The person whose record was expunged;

34 (2) a private detective agency or a private patrol operator, and the
35 request is accompanied by a statement that the request is being made in
36 conjunction with an application for employment with such agency or
37 operator by the person whose record has been expunged;

38 (3) a court, upon a showing of a subsequent conviction of the person
39 whose record has been expunged;

40 (4) the secretary for aging and disability services, or a designee of the
41 secretary, for the purpose of obtaining information relating to employment
42 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,
43 of the Kansas department for aging and disability services of any person

1 whose record has been expunged;

2 (5) a person entitled to such information pursuant to the terms of the
3 expungement order;

4 (6) a prosecutor, and such request is accompanied by a statement that
5 the request is being made in conjunction with a prosecution of an offense
6 that requires a prior conviction as one of the elements of such offense;

7 (7) the supreme court, the clerk or disciplinary administrator thereof,
8 the state board for admission of attorneys or the state board for discipline
9 of attorneys, and the request is accompanied by a statement that the
10 request is being made in conjunction with an application for admission, or
11 for an order of reinstatement, to the practice of law in this state by the
12 person whose record has been expunged;

13 (8) the Kansas lottery, and the request is accompanied by a statement
14 that the request is being made to aid in determining qualifications for
15 employment with the Kansas lottery or for work in sensitive areas within
16 the Kansas lottery as deemed appropriate by the executive director of the
17 Kansas lottery;

18 (9) the governor or the Kansas racing and gaming commission, or a
19 designee of the commission, and the request is accompanied by a
20 statement that the request is being made to aid in determining
21 qualifications for executive director of the commission, for employment
22 with the commission, for work in sensitive areas in parimutuel racing as
23 deemed appropriate by the executive director of the commission or for
24 licensure, renewal of licensure or continued licensure by the commission;

25 (10) the Kansas racing and gaming commission, or a designee of the
26 commission, and the request is accompanied by a statement that the
27 request is being made to aid in determining qualifications of the following
28 under the Kansas expanded lottery act: (A) Lottery gaming facility
29 managers and prospective managers, racetrack gaming facility managers
30 and prospective managers, licensees and certificate holders; and (B) their
31 officers, directors, employees, owners, agents and contractors;

32 (11) the Kansas sentencing commission;

33 (12) the state gaming agency, and the request is accompanied by a
34 statement that the request is being made to aid in determining
35 qualifications: (A) To be an employee of the state gaming agency; or (B)
36 to be an employee of a tribal gaming commission or to hold a license
37 issued pursuant to a tribal-gaming compact;

38 (13) the Kansas securities commissioner or a designee of the
39 commissioner, and the request is accompanied by a statement that the
40 request is being made in conjunction with an application for registration as
41 a broker-dealer, agent, investment adviser or investment adviser
42 representative by such agency and the application was submitted by the
43 person whose record has been expunged;

1 (14) the Kansas commission on peace officers' standards and training
2 and the request is accompanied by a statement that the request is being
3 made to aid in determining certification eligibility as a law enforcement
4 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

5 (15) a law enforcement agency and the request is accompanied by a
6 statement that the request is being made to aid in determining eligibility
7 for employment as a law enforcement officer as defined by K.S.A. 22-
8 2202, and amendments thereto;

9 (16) (A) the attorney general and the request is accompanied by a
10 statement that the request is being made to aid in determining
11 qualifications for a license to act as a bail enforcement agent pursuant to
12 K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A.
13 2022 Supp. 50-6,141, and amendments thereto; or

14 (B) the attorney general for any other purpose authorized by law,
15 except that an expungement record shall not be the basis for denial of a
16 license to carry a concealed handgun under the personal and family
17 protection act; or

18 (17) the Kansas bureau of investigation, for the purpose of
19 completing a person's criminal history record information within the
20 central repository, in accordance with K.S.A. 22-4701 et seq., and
21 amendments thereto.

22 (m) (1) The provisions of subsection (l)(17) shall apply to records
23 created prior to, on and after July 1, 2011.

24 (2) Upon the issuance of an order of expungement that resulted in the
25 restoration of a person's right to keep and bear arms, the Kansas bureau of
26 investigation shall report to the federal bureau of investigation that such
27 expunged record be withdrawn from the national instant criminal
28 background check system. The Kansas bureau of investigation shall
29 include such order of expungement in the person's criminal history record
30 for purposes of documenting the restoration of such person's right to keep
31 and bear arms.

32 Sec. 3. K.S.A. 2022 Supp. 21-6614 is hereby repealed.

33 Sec. 4. This act shall take effect and be in force from and after **July 1,**
34 **2024, and** its publication in the statute book.